

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4 and 477C.4, the Utilities Board (Board) gives notice that on May 31, 2017, the Board issued an order in Docket No. RMU-2016-0040, In re: Review of Equipment Distribution Program Rules [199 IAC 37], “Order Commencing Rule Making,” proposing to update and streamline Chapter 37 of the Board’s rules. The order approving this Notice of Intended Action can be found on the Board’s Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0040.

To develop the proposed amendments to Chapter 37, the Board sought input from the Dual Party Relay Council (Council), which advises the Board on matters related to the Iowa equipment distribution program, including possible changes to the Board’s rules. Together with the Board’s staff, the Council has been reviewing Chapter 37 since 2015. At its November 2, 2016, meeting, the Council recommended that the Board adopt certain amendments to Chapter 37.

In this Notice, the Board proposes to adopt many of the amendments recommended by the Council. The Board invites comments on the proposed amendments.

Other proposed amendments to Chapter 37 are intended to streamline and reorganize the rules for greater clarity.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments to Chapter 37. The statement must be filed on or before July 11, 2017. The statement should be filed electronically through the Board’s electronic filing system (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author’s name and address and make specific reference to Docket No. RMU-2016-0040. Paper comments may be filed with approval of the Board.

An opportunity for interested persons to present oral comments on the proposed amendments to Chapter 37 will be held at 10 a.m. on August 16, 2017, in the Board’s hearing room at 1375 E. Court Avenue, Room 69, Des Moines, Iowa. Persons with disabilities who require assistive services or devices to observe or participate should contact the Board at (515)725-7300 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will not have a detrimental effect on jobs in Iowa and will have a beneficial effect by updating and streamlining the rules.

These rules are intended to implement Iowa Code section 17A.4 and chapter 477C.

The following amendment is proposed.

Amend 199—Chapter 37 as follows:

CHAPTER 37 EQUIPMENT DISTRIBUTION PROGRAM

199—37.1(477C) Policy and purpose Purpose. ~~The board has authority under Iowa Code section 477C.4 to plan, establish, administer, and promote a~~ This chapter describes the board’s program established pursuant to Iowa Code section 477C.4 to secure, finance, and distribute telecommunications devices for the deaf. ~~The needs for equipment to allow persons with communication impairments to use the telephone are not being satisfied in Iowa at this time. A reasonable distribution program is~~

desirable. All customers will benefit when access to the telephone system is available to more persons. The existing dual party relay service will be more fully utilized when more persons have the equipment necessary to gain access to the relay service.

The equipment distribution program will be limited by ~~periodic~~ annual budget amounts set by the board. When the budgeted amounts for a period are committed or expended, no further vouchers for equipment will be issued until the next period when the board budgets additional amounts.

199—37.2(477C) Program structure. The equipment distribution program will be conducted by a program administrator chosen by the board. Distribution of equipment will be made through a voucher system utilizing private vendors for equipment purchases. Vouchers to pay part or, depending upon the price, all of the cost of equipment will be issued by the program administrator to eligible recipients. After purchase using a voucher, the recipient will be the permanent owner of the equipment and responsible for enforcement of any warranties and for any repairs.

37.2(1) Amount. The voucher will state a standard amount for a particular piece of equipment.

~~a. The standard amount shall be determined and updated periodically by the program administrator.~~

~~b. The standard amount shall be 95 percent of the average retail market price for the piece of equipment, unless the retail market price is more than \$1,000, in which case the standard amount shall be 99 percent of the average retail market price. The standard amount may be increased to 100 percent if a person demonstrates to the program administrator that the person is unable to pay the matching amount.~~

37.2(2) Voucher use. The recipient of a voucher may purchase equipment from any vendor who will accept the voucher and may apply the voucher amount toward purchase of the brand and model of indicated equipment as the recipient chooses. ~~A bill of sale for equipment purchased prior to the issuance of a voucher shall not be reimbursed.~~

37.2(3) Term. The vouchers shall provide for a 40-day period to present the voucher to the vendor. The vendor, upon presentation of the voucher, shall have 60 days to complete the sale and delivery of the equipment and to return the voucher to the program administrator. The program administrator shall have 20 days to process and return the voucher to the board for payment. The program administrator, for good cause shown, may extend either the 40- or 60-day deadline, provided the voucher is returned to the board for payment within 120 days from the issuance of the voucher. Except for good cause shown, the vendor will not be reimbursed for a voucher issued more than 120 days before the voucher is returned to the board for payment.

37.2(4) Payment. The voucher is not a negotiable instrument. Upon presentation of documentation by the vendor as required by the board, including but not limited to a bill of sale showing an amount due no greater than the voucher amount, the vendor will be issued a state warrant for the amount due.

199—37.3(477C) Equipment. The board will authorize and maintain a list of the types of equipment to be distributed through the program.

199—37.3 199—37.4(477C) Eligibility Application process and eligibility. To be eligible to receive a voucher for equipment under the program, a person must satisfy the following standards. Applications will be processed in queue as determined by the program administrator. No person will be entitled to equipment at a particular time merely because that person meets the eligibility requirements. Additional vouchers will not be issued during a period if unpaid vouchers are outstanding for the remaining funds budgeted for the period. To be eligible to receive a voucher for equipment under the program, a person must satisfy the following requirements.

37.3(1) 37.4(1) Verification of need with initial application. ~~The~~ An applicant's initial application shall include verification of the applicant's need for the equipment must be verified. The verification shall be made by an appropriate professional, including but not limited to a licensed physician; certified teacher in the fields of hearing, speech, or visual impairment; licensed and certified sign language interpreter; speech pathologist; audiologist or hearing aid specialist; or an appropriate state or federal agency representative, as part of the initial application. At the time of reapplication for equipment, the

~~applicant must submit a statement certifying the applicant's condition has not changed to the extent that a different type of equipment is needed. If an applicant's condition has changed to the extent that a different type of equipment is needed from that originally received, the applicant's need must be verified by an appropriate professional.~~

~~37.3(2) 37.4(2)~~ The applicant must have access to the service which the requested equipment will allow the applicant to use. The following noninclusive examples illustrate the application of this requirement:

a. If the applicant is applying for telephone equipment, the applicant must have telephone service available to the applicant's Iowa residence or must have applied for telephone service to the Iowa residence.

b. If the applicant is applying for a device that requires Internet access, the applicant must have access to Internet service. Access to Internet service may be provided through a public Wi-Fi connection.

~~37.3(3) 37.4(3)~~ The applicant must be an individual and an Iowa resident.

~~37.3(4) 37.4(4)~~ The applicant must be at least five years of age or demonstrate an ability to use the equipment requested. No demonstration is required for those five years of age and older.

~~37.3(5)~~ The applicant will be limited to a voucher for one type of equipment or equipment package. If there are individuals in the same household who have different communication impairments that require different types of assistive telecommunications equipment, the individuals may make a joint or separate request to the equipment distribution program administrator. The administrator may grant those portions of the requests that satisfy the eligibility requirements in this rule.

~~37.3(6)~~ Equipment may be replaced under the program by reapplication as appropriate. Reapplication will be limited by a five-year waiting period. The reapplication period may be shortened by the program administrator for good cause shown.

~~37.3(7)~~ An applicant must agree to cooperate with studies to evaluate the effectiveness of the program.

~~37.3(8)~~ An applicant's gross household income must be less than \$70,000 for a family of four. Household numbers above or below four will increase or decrease that amount in \$8,000 increments.

~~37.4(5)~~ An applicant must agree to cooperate with studies to evaluate the effectiveness of the program.

~~37.4(6)~~ An applicant's gross annual family income must be equal to or less than 100 percent of the Iowa median income level for the applicant's family size set annually by the U.S. Bureau of the Census.

~~37.4(7)~~ The applicant will be limited to a voucher for one type of equipment or equipment package. If there are individuals in the same household who have different communication impairments that require different types of equipment, the individuals may make a joint request or separate requests to the program administrator. The program administrator may grant those portions of the requests that satisfy the eligibility requirements in this rule.

~~37.4(8)~~ Reapplication. Prior voucher recipients may reapply through the program to replace existing equipment or to obtain new equipment, as appropriate. Reapplication will be limited by a five-year waiting period. The reapplication period may be shortened by the program administrator for good cause shown. At the time of reapplication for equipment, it is not necessary for the applicant's need for the equipment to be reverified by an appropriate professional. The program administrator shall verify that the applicant reapplying for equipment previously qualified for a voucher.

199—37.4(477C) Equipment. The board will authorize the types of equipment to be distributed through the program, including but not limited to telecommunications devices for the deaf with printers, signalers, amplifiers, computer software, and a limited number of telecommunications devices for the deaf/blind.

199—37.5(477C) Voucher system.

37.5(1) Amount. The voucher will state a standard amount for a particular piece of equipment.

a. The standard amount shall be determined and updated periodically by the program administrator.

b. The standard amount shall be 95 percent of the average retail market price for the piece of equipment, unless the retail market price is more than \$1,000, in which case the standard amount shall be 99 percent of the average retail market price. The standard amount may be increased to 100 percent if a person demonstrates to the program administrator that the person is unable to pay the matching amount.

37.5(2) *Voucher use.* The recipient of a voucher may purchase equipment from any vendor that will accept the voucher and may apply the voucher amount toward purchase of the brand and model of indicated equipment as the recipient chooses. An invoice for equipment purchased prior to the issuance of a voucher shall not be reimbursed.

37.5(3) *Term.* The voucher shall provide for a 40-day period for the voucher recipient to present the voucher to the vendor. The vendor, upon presentation of the voucher, shall have 60 days to complete the sale and delivery of the equipment and to return the voucher to the program administrator. The program administrator shall have 20 days to process and return the voucher to the board for payment. The program administrator, for good cause shown, may extend either the 40- or 60-day deadline, provided the voucher is returned to the board for payment within 120 days from the issuance of the voucher. The program administrator may authorize reimbursement for a voucher issued more than 120 days before the voucher is sent to the board for payment if the program administrator determines good cause exists for extending the 120-day deadline and provides supporting documentation to the board.

37.5(4) *Payment.* The voucher is not a negotiable instrument. Upon presentation of documentation by the vendor as required by the board, including but not limited to an invoice showing an amount due no greater than the voucher amount, the vendor will be issued a state warrant for the amount due.

199—37.5 199—37.6(477C) Complaints. All complaints concerning the equipment distribution program will be resolved pursuant to the following:

37.5(1) 37.6(1) The program administrator will make determinations concerning matters such as eligibility, type of equipment for particular applicants, or reimbursement of vendors.

a. **37.6(2)** The program administrator, after requiring interested persons to state verbally or in writing any complaint or dispute arising under the equipment distribution program, shall attempt to settle the matter informally within 45 days.

b. **37.6(3)** Should the informal dispute resolution process fail, the complaint complainant may be submitted submit the complaint to the board by the complainant and will be processed by the project manager as provided for utility customers in 199 IAC 6 for processing by the board's equipment distribution program project manager as provided in 199—Chapter 6. The project manager will provide a copy of the complaint to the program administrator and the consumer advocate. The complaint will be directed to the program administrator with a copy to the consumer advocate. The board staff assigned to the equipment distribution program will then The project manager will issue a proposed resolution as defined in 199 IAC 6.4(476) that describes the facts involved in the dispute, clearly states the proposed resolution, and gives notice that any interested person dissatisfied with the proposed resolution has 14 days after the proposed resolution is issued to file a written request for formal complaint proceedings before the board.

c. **37.6(4)** The proposed resolution shall include a description of the facts involved in the dispute and a clear statement of the proposed resolution. If no timely request for formal complaint proceedings is filed, the proposed resolution shall be deemed binding on all interested persons served with the proposed resolution.

d. **37.6(5)** The proposed resolution shall also give notice that any interested person dissatisfied with the proposed resolution has 14 days after the issuance of the proposed resolution to file a written request for formal complaint proceedings before the Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. If no timely request for formal complaint proceedings is filed, the proposed resolution shall be deemed binding on all interested persons served with the proposed resolution. The request for formal complaint proceedings shall be considered as filed on the date of the United States Postal Service postmark or the date personal service is made. The board will process requests for formal complaint proceedings as provided in rule 199—6.5(476).

~~37.5(2) The request for formal complaint proceedings shall explain why the proposed resolution should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to any other persons served with the proposed resolution.~~

~~37.5(3) Upon receipt of a request for formal complaint proceedings, the board shall consider whether formal complaint proceedings should be initiated and issue an order. The request shall be granted if the board determines there is any reasonable ground for investigating the complaint. If the board denies formal complaint proceedings, a party may file a petition for judicial review either in the Polk County district court or in the district court for the county in which the party resides or has its principal place of business.~~

~~37.5(4) When a complaint is docketed as a formal proceeding, the procedures set forth in 199—Chapter 7 will apply.~~

These rules are intended to implement Iowa Code section 477C.4.